

## Article 4C.

### Filing of Declarations of Estimated Income Tax and Installment Payments of Estimated Income Tax by Corporations.

#### **§ 105-163.38. Definitions.**

The following definitions apply in this Article, unless the context requires otherwise:

- (1) Code. – Defined in G.S. 105-228.90.
- (1a) Corporation. – Defined in section 7701 of the Code.
- (2) Estimated tax. – The amount of income tax the corporation estimates as the amount imposed by Article 4 for the taxable year.
- (3) Fiscal year. – An accounting period of 12 months ending on the last day of any month other than December.
- (4) Secretary. – The Secretary of Revenue.
- (5) Taxable year. – The calendar year or fiscal year used as a basis to determine net income under Article 4. If no fiscal year has been established, "fiscal year" means the calendar year. In the case of a return made for a fractional part of the year under Article 4, or under rules prescribed by the Secretary, "taxable year" means the period for which the return is made. (1959, c. 1259, s. 1A; 1973, c. 476, s. 193; 1983, c. 713, s. 86; 1989 (Reg. Sess., 1990), c. 984, s. 15; 1991 (Reg. Sess., 1992), c. 922, s. 8; 1993, c. 12, s. 10.)

#### **§ 105-163.39. Declarations of estimated income tax required.**

(a) Declaration Required. – Every corporation subject to taxation under Article 4 shall submit a declaration of estimated tax to the Secretary. This declaration is due at the time established in G.S. 105-163.40, and payment of the estimated tax is due at the time and in the manner prescribed in that section.

(b) Content. – In the declaration of estimated tax, the corporation shall state its estimated total net income from all sources for the taxable year, the proportion of its total net income allocable to this State, its estimated tax, and any other information required by the Secretary.

(c) Amendments to Declaration. – Under rules prescribed by the Secretary, a corporation may amend a declaration of estimated tax. (1959, c. 1259, s. 1A; 1973, c. 476, s. 193; 1983, c. 713, s. 86.)

#### **§ 105-163.40. Time for submitting declaration; time and method for paying estimated tax; form of payment.**

(a) Due Dates of Declarations. – Declarations of estimated tax are due at the same time as the corporation's first installment payment. Installment payments are due as follows:

- (1) If, before the 1st day of the 4th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars (\$500.00), the corporation shall pay the estimated tax in four equal installments on or before the 15th day of the 4th, 6th, 9th and 12th months of the taxable year.
- (2) If, after the last day of the 3rd month and before the 1st day of the 6th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars (\$500.00), the corporation shall pay the estimated tax in three equal

installments on or before the 15th day of the 6th, 9th and 12th months of the taxable year.

- (3) If, after the last day of the 5th month and before the 1st day of the 9th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars (\$500.00), the corporation shall pay the estimated tax in two equal installments on or before the 15th day of the 9th and 12th months.
- (4) If, after the last day of the 8th month and before the 1st day of the 12th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars (\$500.00), the corporation shall pay the estimated tax on or before the 15th day of the 12th month of the taxable year.

(b) **Payment of Estimated Tax When Declaration Amended.** – When a corporation submits an amended declaration after making one or more installment payments on its estimated tax, the amount of each remaining installment shall be the amount that would have been payable if the estimate in the amended declaration was the original estimate, increased or decreased as appropriate by the amount computed by dividing:

- (1) The absolute value of the difference between:
  - a. The amount paid and
  - b. The amount that would have been paid if the estimate in the amended declaration was the original estimate by
- (2) The number of remaining installments.

(c) **Short Taxable Year.** – Payment of estimated tax for taxable years of less than 12 months shall be made in accordance with rules promulgated by the Secretary.

(d) **Form of Payment.** – A corporation that is required under the Code to pay its federal-estimated corporate income tax by electronic funds transfer must pay its State-estimated tax by electronic funds transfer. (1959, c. 1259, s. 1A; 1973, c. 476, s. 193; 1983, c. 713, s. 86; 1989 (Reg. Sess., 1990), c. 984, s. 16; 1999-389, s. 7.)

### **§ 105-163.41. Underpayment.**

(a) Except as provided in subsection (d), if the amount of estimated tax paid by a corporation during the taxable year is less than the amount of tax imposed upon the corporation under Article 4 of this Chapter for the taxable year, the corporation must be assessed interest in an amount determined by multiplying the amount of the underpayment as determined under subsection (b), for the period of the underpayment as determined under subsection (c), by the percentage established as the rate of interest on assessments under G.S. 105-241.21 that is in effect for the period of the underpayment. For the purpose of this section, the amount of tax imposed under Article 4 of this Chapter is the net amount after subtracting the credits against the tax allowed by this Chapter other than the credit allowed by this Article.

(b) The amount of the underpayment shall be the difference between:

- (1) The amount of the installment the corporation would have been required to pay if the corporation's estimated tax equalled ninety percent (90%) of the tax imposed under Article 4 for the taxable year, assuming the same schedule of installments, or ninety percent (90%) of the tax imposed for the taxable year if the corporation made no installment payments; and

- (2) The amount, if any, of the corresponding installment timely paid by the corporation.
- (c) The period of the underpayment runs from the date the installment was required to be paid to the earlier of:
  - (1) The 15th day of the fourth month following the close of the taxable year, or
  - (2) With respect to any portion of the underpayment, the date on which the portion is paid. An installment payment of estimated tax is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (1) of subsection (b) for that installment date.
- (d) Except as provided in subdivision (5) of this subsection, the interest for underpayment imposed by this section shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installments equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax was equal to the least of:
  - (1) The tax shown on the return of the corporation for the preceding taxable year, if the corporation filed a return for the preceding taxable year and the preceding year was a taxable year of 12 months;
  - (2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or
  - (3) An amount equal to ninety percent (90%) of the tax for the taxable year computed by placing on an annualized basis the taxable income:
    - a. For the first three months of the taxable year, in the case of the installment required to be paid in the 4th month;
    - b. For the first three months or for the first five months of the taxable year, in the case of the installment required to be paid in the 6th month;
    - c. For the first six months or for the first eight months of the taxable year, in the case of the installment required to be paid in the 9th month; and
    - d. For the first nine months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the 12th month of the taxable year.
  - (4) For purposes of this subdivision, the taxable income shall be placed on an annualized basis by multiplying by 12 the taxable income referred to in the preceding sentence, and dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11 as the case may be) referred to in that sentence.
  - (5) In the case of a large corporation, as defined in section 6655 of the Code, subdivisions (1) and (2) of this subsection shall not apply. (1959, c. 1259, s. 1A; 1973, c. 476, s. 193; 1977, c. 1114, s. 9; 1983, c. 713, s. 86; 1987

(Reg. Sess., 1988), c. 994, ss. 2, 3; 2001-414, s. 13; 2005-276, s. 6.37(m); 2007-491, s. 44(1)a; 2013-414, s. 3.)

**§ 105-163.42.** Repealed by Session Laws 1985 (Regular Session, 1986), c. 820.

**§ 105-163.43. Overpayment refunded.**

If the amount of estimated tax paid under this Article exceeds the taxes against which the estimated tax is credited pursuant to this Article, the excess is considered an overpayment by the taxpayer and shall be refunded as provided in Article 9 of this Chapter. (1959, c. 1259, s. 1A; 1967, c. 1110, s. 5; 1973, c. 476, s. 193; 1983, c. 713, s. 86; 1993, c. 315, s. 1.)

**§ 105-163.44:** Repealed by Session Laws 2000-140, s. 66.